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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 18 OF THE CONVENTION

Second periodic reports of States Parties

Addendum

EL SALVADOR

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The Government of El Salvador, as a State Party to the Convention and in compliance with the provisions of article 18 of the Convention, wishes to present this report on the legislative, administrative and other measures adopted in relation to the provisions of articles 2 to 16 of the Convention which, within the framework of the current democratic process in El Salvador, have been taken with regard to the status of women.

ARTICLE 2 OF THE CONVENTION

(a) The present Constitution of the Republic of El Salvador, in force since December 1983, embodies the Principle of Equality, a principle which had already been introduced in previous Constitutions. Article 3 of the Constitution, to be found in the section on the Rights of the Individual, therefore lays down that: "All persons are equal before the law; in the enjoyment of civil rights there may be no restrictions based on differences of nationality, race, sex or religion and no hereditary offices or privileges are recognized".

This principle of equality, as mentioned, is identical to the one appearing in the previous Constitution, with the distinction that the dogmatic part which appears at the end in the previous versions is now the first part because, in an effort to accord greater importance to individual rights, they are given prominence in this new position, even though the same text is retained.

From a practical standpoint, this principle is not merely in force, but also a positive aspect of Salvadorian society.

(b) The Salvadorian legal structure does not include an express measure to prohibit discrimination against women, but article 3 of the Constitution, as mentioned above, lays down that no discrimination is allowed in El Salvador on grounds of sex.

(c) On the basis of the text of article 3 of the Constitution, which clearly establishes equality, there is no specific judicial or administrative procedure for the event that a woman believes that a discriminatory act has been committed against her person, although she has the following constitutional recourse as a citizen:

- Unconstitutionality (Article 183 cn)
- Habeus Corpus (Article 111.2 cn)
- Constitutional Guarantee for Protection of Civil Rights (Article 247 cn)
- Action under Administrative Law.

Such recourse may be invoked by any citizen whose interests or rights may have been prejudiced.

(d) In reality and as already mentioned, in El Salvador there are no discriminatory measures since the Principle of Equality is embodied in the basic legislation.

(e) The Government recently equalized the wages of men and women working on the land, which in fact constitutes an act of justice since this difference had persisted for essentially historical reasons, thereby eliminating a practice which went against the principle of "Constitutional Equality". President Duarte stated,

when he presented the Stabilization and Economic Reactivation Programme, that: "WITH REGARD TO THE FIXING OF MINIMUM WAGES, THERE WILL BE A SUBSTANTIAL INCREASE AND WE WILL STRICTLY APPLY THE CONSTITUTIONAL PRINCIPLE OF EQUAL PAY FOR EQUAL WORK BY EQUALIZING THE WAGES OF MEN AND WOMEN WORKING ON THE LAND".

(f) and (g) The entire legal framework in El Salvador is currently undergoing rigorous examination and reform by the specially established "Commission to Review Salvadorian Legislation", whose tasks include examination of the Civil Code and all those provisions relating to women and the family which have remained and exist in our legislation as historic relics without application to today's society. Similarly, a "Family Code" to give women full protection is under examination.

ARTICLE 3 OF THE CONVENTION

The Government of El Salvador has taken and continues to take all necessary steps to ensure the full development and advancement of women under conditions of full equality with men because, as is clear from the Constitution, no distinction is made between the rights and duties of men and women. This indicates - and this is supported by examination of the text of the Constitution of El Salvador - that there is equality of conditions in El Salvador between men and women.

None the less, the Government is anxious to improve the status of women and this subject is dealt with in the general government plan which establishes policies and priorities which must be considered with regard to women.

ARTICLE 4 OF THE CONVENTION

1. As stated at the beginning of this report, in El Salvador there is complete equality between men and women, hence it has not been necessary to take temporary measures aimed at accelerating the achievement of this equality which has existed for years in El Salvador.

2. El Salvador is very surprised that the study of its previous report should have led some experts to consider some of the measures embodied in the Labour Code to protect pregnant women as being "excessively protective", when they were in fact specifically introduced to protect the mother and her future child and may in any event be considered to be protective, but not damaging, much less discriminatory.

ARTICLE 5 OF THE CONVENTION

The Government of the Republic is currently working towards changing the socio-cultural patterns with a view to overcoming the prejudices of sexual superiority or inferiority. The general government plan "The Path to Peace" includes the following as part of the social policy: "In the process of consolidating the family, the woman is considered as a fundamental component, bearing in mind the responsibility she assumes in the education and upbringing of the children and her contribution as a productive agent. The large number of unmarried and deserted mothers indicates that, in El Salvador, the woman is, in most cases, the person on whom the responsibility for the family falls. This is why efforts will be made to promote women's organizations seeking to bring about the full realization of women and to protect the family."

The Government will pay special attention to basic education for women, ensuring that, at all levels, women are given greater opportunity and are at least able to complete primary education, by staying on at school and delaying the age of marriage or childbirth, and efforts will be made to eliminate everything that degrades the dignity of women in El Salvador: vulgarity, abuses, insults, lack of

respect, offences against decency, sexual involvement and a climate of fear affecting women. Schools will teach respect within the family nucleus and we shall not tolerate any lack of respect for women in El Salvador.

Efforts will be made to find areas of affinity between the woman's working life and her security as the mother of a family. The acquisition of values and the understanding by men of their responsibilities will give them a clearer awareness of their parental role and will gradually transform the family nucleus into a balanced unit in which the man and woman complement each other and fulfil their respective roles.

The above clearly indicates the thorough dedication and great efforts of the Government to ensure positive application of the precepts embodied in the Convention.

ARTICLE 6 OF THE CONVENTION

In Salvadorian criminal legislation, prostitution is not defined as a separate offence, but special cases such as the "exploitation of prostitution" are regulated under the Penal Code, article 210pn, stipulating that:

Art. 210pn. "Any person who derives his subsistence, even partially, from a person who practices prostitution by exploiting the proceeds of this profession, shall be punished by imprisonment for one to three years."

Art. 209. 'Aiding and abetting prostitution' - "Any person who engages openly or covertly in supporting, administering or controlling a brothel or habitually engages in facilitating the prostitution of women under the age of 16 shall be punished with imprisonment for one to three years."

There is also an article in the Penal Code that punishes rape of a prostitute:

Art. 196. "The rape of a woman who engages in prostitution shall be punished with imprisonment from three months to two years."

With reference to this point, as well as others, it should be made clear that criminal legislation is also undergoing a rigorous examination and it is likely that these points will be amended to give women greater protection.

PART II

ARTICLE 7 OF THE CONVENTION

In El Salvador women have enjoyed the right to vote since 1939; at which time they were clearly at a disadvantage in relation to men in as much as the only requirement that had to be fulfilled by men was to prove citizenship (18 years of age) and to be recorded in the Municipal Register. However, even though the Constitution (1939) made no distinction, electoral law required women to fulfil a whole set of requirements which substantially reduced the number of women voters. At that time women only had the right of suffrage but could not stand for public office. It was not until 1950 that the Political Constitution first granted women all their constitutional rights on an equal footing with men, with the result that women currently enjoy the same civil and political rights as men. Article 71 of the Constitution provides that:

"All Salvadorians above the age of 18 are citizens."

Art. 72. "The political rights of citizens are:

1. To exercise suffrage;

2. To associate with one another to constitute political parties in accordance with the law and to join parties already constituted;

3. To stand for public office in accordance with the requirements set out in this Constitution and in secondary legislation."

Art. 73. "The political duties of the citizen are:

1. To exercise suffrage;

2. To uphold the Constitution of the Republic and to ensure that it is upheld;

3. To serve the State according to the laws."

Exercise of the right of suffrage also includes the right to vote in direct popular elections, as envisaged in the Constitution.

All this is clearly reflected in the political life of the Republic, since there has been one woman President of the Constituent Assembly and there are currently seven women in the Government with important responsibilities as Deputy Ministers, as well as women Governors and Mayors and senior public administration officials.

ARTICLE 8 OF THE CONVENTION

Nowadays women encounter no difficulties in occupying government posts and there are at present in the foreign service two Minister-Counsellors, one first secretary, 14 consuls and vice-consuls and 32 senior attachés.

The following posts are occupied by women in the Ministry of Foreign Affairs:

- Chief of Protocol;
- Legal Adviser;
- Director of Finance;
- Director for International Co-operation;
- Head of the Boundaries Section;
- Member of the Commission on Boundary Affairs;
- Head of the Section for International Economic Organizations;
- Director for Central American Affairs.

ARTICLE 9 OF THE CONVENTION

In the Salvadorian constitutional system, a woman does not lose her nationality through marriage to an alien. Indeed, marriage merely facilitates the acquisition of Salvadorian nationality by the alien spouse.

On this point Salvadorian legislation has been fairly advanced since the Constitution of 1872, in which article 15 clearly establishes that: "The fact that an alien marries a Salvadorian woman does not deprive the woman of her Salvadorian nationality" (a precept which was maintained until 1945 and then governed by secondary legislation).

In the present Constitution, article 92.4 provides that:

Art. 92 "The following may acquire Salvadorian nationality by naturalization:

4. An alien man married to a Salvadorian woman or an alien woman married to a Salvadorian man with two years' residence in the country before or after the marriage is entered into."

The mother is also a decisive factor in the acquisition of nationality and article 90 of the Constitution states:

Art. 90 "The following are Salvadorian by birth:

1. Persons born in the territory of El Salvador;

2. Children of Salvadorian fathers or mothers born abroad;

3. Persons originating from the other States comprising the Federal Republic of Central America who, with domicile in El Salvador, indicate to the competent authorities their wish to become Salvadorian without the need to renounce their original nationality."

PART III

ARTICLE 10 OF THE CONVENTION

Article 53 of the Constitution of the Republic provides that: "the right to education and culture is inherent in the human being; consequently it is an obligation and essential aim of the State to preserve, promote and disseminate them."

El Salvador recognizes that education is the inherent right of a human being and therefore considers it to be an obligation and essential aim of the State.

The aforesaid article is fairly general in scope and speaks of the "human being", i.e. no distinction of any kind is made on the grounds of sex, particularly in this area, which is considered to be an essential aim of the State.

In El Salvador, education is dispensed by private or public institutions. However, both types of institutions are compelled to follow the same syllabuses, which are established for the purpose by the Ministry of Education and are the same throughout the Republic in all types of schools. There is thus no discrimination against women in education since our syllabuses make no distinction on the grounds of sex.

Women also enjoy equal conditions with regard to grants or scholarships for studies of all kinds.

With reference to literacy campaigns, El Salvador recently initiated an ambitious literacy programme which naturally makes no discrimination of any kind.

None the less, we have to accept that the level of illiteracy among women is higher than among men: 54.55 per cent among women and 45.45 per cent among men. The reason for this is the socio-cultural situation which, despite great effort, still persists in El Salvador in the rural areas where women are obliged to help their mothers in caring for their brothers and sisters or in doing household chores. Moreover, this is aggravated by the early age of marriage or childbearing, which usually prevents women from obtaining a formal education.

Women who follow a course of formal education enjoy the same freedom as men to take part in sport. Family planning counselling is provided through the radio, television and press, with a continuing campaign designed to highlight the benefits for the family of having only planned children. In addition, the Demographic Association of El Salvador has many family planning assistance and counselling offices thoughout the country.

ARTICLE 11 OF THE CONVENTION

In labour matters, women in El Salvador enjoy equal rights with men, notwithstanding the fact that they also enjoy special protection in some kinds of work and during pregnancy.

It should be pointed out that a new Labour Code, establishing a number of workers' rights, is currently under examination, but this is still at the planning stage. The provisions currently in force provide for the following:

Art. 37 of the Constitution states: "Work is a social function enjoying the protection of the State and is not considered as an article of commerce."

Similarly, article 2 of the Constitution establishes, inter alia, that work is a human right and a fundamental guarantee.

Art. 2. "All persons have the right to life, physical and moral integrity, liberty, security, work, property and possession, and to protection in the preservation and defence thereof."

This shows that work has been enshrined as an inalienable right of all human beings in the Constitution of El Salvador.

In labour matters, no distinction is made legally with regard to selection and opportunities for work. A distinction is only drawn when it is necessary to determine types of work which are incompatible by their intrinsic nature with women's physical condition.

Article 105 of the Labour Code therefore provides that: "the performance of dangerous and unhealthy work by persons under 18 and by women of any age is prohibited."

Article 106 of the Code defines dangerous work:

Art. 106. "Dangerous types of work are those that can cause death or immediate and grave physical injury to the worker. It is considered that the danger attached to such work may derive from its intrinsic nature, the type of materials used, produced or released, the type of residues generated by such materials, the handling of corrosive, inflammable or explosive substances or the storage of such materials in any form.

The following, for example, are considered to be dangerous types of work:

(a) The lubrication, cleaning, inspection or repair of machines or mechanisms while in operation;

(b) Any work using automatic, circular or band saws; shears, knives, cutters, hammers or other mechanical equipment whose operation requires special precautions and skill, except kitchen and butcher's utensils and tools, or implements for similar work;

(c) Work underground or under water;

(d) Work using or producing explosive, detonating, unhealthy or toxic materials or inflammable substances; other similar types of work;

(e) Construction work of all kinds and related demolition, repair, maintenance and similar work;

(f) Work in mines and quarries;

(g) Work at sea, stowage of cargo, loading and unloading in docks; and

(h) Other types of work specified in laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations."

Art. 108. "Unhealthy types of work are those that, owing to the conditions under which they are performed or to their intrinsic nature, may harm the health of the workers; and those in which injury may be caused by the type of materials used, produced or released or by their solid, liquid or gaseous residues, such as:

(a) Those that entail the risk of poisoning through the handling of toxic substances or of materials from which they are derived;

(b) Any industrial operation in the course of which harmful gases or vapours or noxious fumes are generated;

(c) Any operation in which dangerous or noxious dust is generated;

(d) Other types of work specified in the laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations."

As indicated in the present report, in El Salvador there is no discrimination against women and it is thus unusual to find provisions in the legal structure geared specifically to women, with the result that, as far as the freedom to choose an occupation or employment is concerned, there are only general constitutional precepts. Article 8 of the Constitution provides that:

"No one is obliged to do what the law does not prescribe or to abstain from doing what it does not prohibit." From this provision we can see that men and women in El Salvador are free to choose their own occupation or employment.

With regard to the principle of security of tenure, in the event of pregnancy women enjoy full and complete protection from the beginning of pregnancy up to the end of post-natal leave, and the Labour Code contains a section entitled "Work by women".

Art. 110. "Employers are prohibited from assigning women to work requiring physical effort incompatible with pregnancy. It is assumed that any work requiring considerable physical effort is incompatible with pregnancy after the fourth month of pregnancy."

Art. 111. "Pregnancy is sufficient reason for the transfer of a female worker to a different post in the same establishment when her work involves direct contact with the public. This transfer may be made at the discretion of the employer or at the request of the worker concerned."

Art. 112. "At the end of post-natal leave, a female worker has the right to return to the job she occupied before her pregnancy."

Art. 113. "As soon as pregnancy begins and until the end of post-natal leave, de facto dismissal or dismissal resulting from previous legal proceedings shall not lead to the termination of a female worker's contract, unless the cause of such dismissal predates the pregnancy; however, even in the latter case, dismissal shall not take effect until immediately after the end of the above-mentioned period of leave."

Women also receive equal wages with men and article 38 No. 1 of the Constitution of the Republic provides that:

No. 1. "In one and the same enterprise and in identical circumstances, equal remuneration for equal work must be paid to the workers, whatever their sex, race, creed or nationality."

This precept became fully effective in January of this year when the wages of men and women working on the land were equalized.

With reference to the Apprenticeship Contract, Salvadorian legislation makes no distinction between men and women, merely regulating the Contract by establishing in general terms that any person of either sex entering into an apprenticeship contract receives proportional remuneration and comes under the social security scheme, with financial and social benefits.

There are also general provisions covering training and retraining without distinction based on sex.

The Social Security system operating in El Salvador is constitutionally established in article 50: "The social security system is a public service of a compulsory nature. The law governs its scope and coverage and the form in which it must be implemented." The same article lays down that the employers, workers and the State shall share in the payment of the social security contributions. Article 3 of the Social Security Law provides that: "The compulsory social security system shall initially be applied to all workers in the service of an employer, whatever the type of contractual relationship and the form of remuneration. It may be extended in due course to cover categories of workers who are not in the service of an employer."

As already indicated, the social security system makes no distinction between men and women.

In the area of social security, last year saw some advances, such as the incorporation into the system of self-employed persons (Decree No. 9 D.O. No. 21/Feb/85).

Decree No. 9: Art. 2. "Also initially incorporated into the social security system in the capacity of independent workers are those individuals who are covered by it in their capacity as employers."

Similarly, Decree No. 10 (D.O. No. 21/Feb/85) lays down that the age for retirement and entitlement to a monthly pension shall be 60 years for men and 55 years for women, instead of the previous requirement of 65 years for men and 60 years for women.

The risks covered by the social security system are listed in article 2 of the Social Security Law.

Art.2 ss. "The social security system shall give graduated coverage of the risks to which workers are exposed because of:

(a) Sickness, normal accidents;

(b) Industrial accidents, occupational diseases;

(c) Maternity;

(d) Disability;

(e) Old age;

(f) Death; and

(g) Forced unemployment.

Persons receiving a pension and the family members of insured persons and of pensioners who are financially dependent upon the latter shall be entitled to benefits on grounds (a) and (c) at such times, under such conditions and in such forms as are established by the Regulations."

The social security system in El Salvador covers all the above-mentioned risks except for forced unemployment.

All the benefits and services of the social security system extend to the wife or lifetime companion of the insured man.

With reference to maternity, women are fully protected from the beginning of pregnancy up to the end of post-natal leave by the principle of security of tenure, which has already been mentioned. As regards the protection of women during pregnancy, article 42 of the Constitution provides that: "Working women shall be entitled to paid leave before and after confinement and to retention of employment. The law shall set out the employer's obligation to install and maintain creches and child-care premises for workers' children."

This demonstrates that the State protects women during and after pregnancy by means of specific measures embodied in the Social Security Law, the Labour Code and the Law governing all forms of leave for public employees, subject to the provisions applicable to the woman.

The social security system establishes the following:

Art. 59. "In the event of maternity, the insured worker shall be entitled to the following benefits in the form and for the period established in the regulations:

(a) Medical, surgical, pharmaceutical, dental, hospital and laboratory services, to the extent that they are essential during pregnancy, confinement and the post-natal period;

(b) The benefits indicated in the first section of this Chapter when sickness occurs as a result of maternity. If the insured woman should die, the surviving relatives shall be entitled to the aid established in article 66;

(c) The issue of a medical certificate for the purpose of the leave that must be granted to her according to the Labour Code;

(d) A cash allowance calculated according to article 48 of this law, on condition that the insured woman does not perform any paid work during the period in which she receives the allowance. In no circumstances may a woman simultaneously receive both a sickness and a maternity allowance;

(e) Assistance during the nursing period, in cash or in kind, when the mother lacks the capacity, in the opinion of the medical officers of the Institute, to feed her child adequately; and

(f) A set of clothes and utensils for the newborn baby, known as the 'maternity layette'."

Art. 60. "An insured man shall have the right by which his wife or lifetime companion, if he is not married, receives the benefits established in subparagraph (a), (b), (e) and (f) of the previous article."

The Labour Code also provides that:

Art. 309. "The employer is obliged to grant a pregnant worker 12 weeks of leave, as a rest period for maternity, six weeks of which must be taken after confinement; and also to pay her in advance a benefit equal to 75 per cent of her basic wage during such leave."

Art. 310. "In order that a female worker may obtain the leave fixed in the previous article, it shall be sufficient for her to submit to her employer a medical certificate made out on plain paper, giving the state of the pregnancy and indicating the probable term."

Art. 311. "In order that a female worker may be entitled to the cash benefit established in this Chapter, it shall be a strict requirement that she has worked for one and the same employer during the six months prior to the probable term; however, she shall in any case be entitled to the leave established in article 309."

Art. 312. "If, after the expiry of the maternity leave, the worker proves by submitting a medical certificate that she is not in a fit condition to return to work, her contract shall continue to be suspended on the grounds specified in article 36.4 for the time necessary for recovery, the employer being obliged to pay her sickness benefits and keep her post open for her."

The law governing all forms of leave for public employees provides that:

Art. 9. "Leave for the purposes of childbearing shall be granted, in general, according to the rules governing sickness leave. However, for each confinement there may be no more than 90 days' leave, one month before and two months after, which must automatically be granted regardless of the time of the female worker concerned."

ARTICLE 12 OF THE CONVENTION

Within the limited resources of El Salvador, health care has always been one of the main concerns of the Government and there has never been any discrimination in the provision of health care, including cases when this is provided free of charge by the State.

In El Salvador, the Maternity Hospital provides medical, hospital and pharmaceutical care for any woman who requests it from the beginning of pregnancy up to childbirth.

As already mentioned, the wife or lifetime companion is covered by the social security system and therefore provided with care from the beginning until the end of pregnancy. Under the social security system the woman is provided with the so-called "maternity layette", comprising a set of clothing and utensils for the newborn baby, as well as help for breast feeding, in cash or in kind.

As far as aid in family planning is concerned, as already indicated there are counselling centres for women or couples on the advantages of planning the family, the various ways of family planning and the most suitable methods in each case. The assistance provided by these centres is free of charge.

ARTICLE 13 OF THE CONVENTION

With regard to the right to family benefits, as has already been explained these are workers' rights, so that women are entitled to them not because they are women but because of the labour relationship in question. However, because of their sex, women do enjoy special benefits, such as:

(a) Maternity leave and security of tenure during pregnancy and post-natal leave;

(b) With regard to obtaining bank loans, mortgages and other forms of financial credit, there is no discrimination whatever against women since, under the Salvadorian system, any person who meets the requirements prescribed by law can obtain credit, mortgages, etc.;

(c) Participation in recreational activities, sports and all aspects of cultural life: El Salvador has declared that education is one of its fundamental activities and sport is understood as being part of education. Since this is one of the fundamental activities of the State, there is no discrimination whatever with regard to participation.

ARTICLE 14 OF THE CONVENTION

The present Government is making great efforts to break the socio-cultural patterns which discriminate against women in rural areas and it was to this end, as already mentioned, that the wages of men and women on the land were equalized.

The provision of adequate housing, sanitation, electricity, water supply, transport and communications is an aim of the State in respect of the entire population and not merely women. Moreover, the literacy campaigns being carried out in the countryside are for the benefit of the entire population, not just women.

When co-operatives are established under the Agrarian Reform system, these provide women with greater scope for organization and there are even some co-operatives in the non-reformed sector which are made up exclusively of women.

There is no discrimination in obtaining credit and agricultural loans since there is no distinction on the grounds of sex. This is because any person who meets the requirements prescribed by law and is able to honour the commitment may obtain credit.

ARTICLE 15 OF THE CONVENTION

It has already been stated repeatedly in this report that there is equality of men and women before the law.

In civil matters, women have equal legal capacity with men, as confirmed by articles 1316, 1317 and 1318 of the Civil Code:

ACTIONS AND DECLARATIONS OF INTENT

Art. 1316. "The following are necessary requirements for the undertaking of obligations connected with actions or declarations of intent by one person to another:

1. That the person have legal capacity;

2. That the persons consent to the action or declaration and that their consent be not vitiated;

3. That the purpose be licit;

4. That it have a licit cause.

A person's legal capacity consists in his being able to undertake an obligation on his own, without the instrumentality or authorization of another person."

Art. 1317. "All persons have legal capacity except those declared by the law to be incapable."

Art. 1318. "The insane, under-age children and deaf mutes who cannot make themselves understood in writing have absolute legal incapacity.

Their actions give rise to no natural obligations and cannot be the subject of collateral guarantees.

Also, adult minors who have not attained their majority and corporate bodies are deemed incapable; however, the incapacity of the former is not absolute since their actions are valid in the cases determined by the law. The latter are considered to be absolutely incapable in the sense that their actions shall have no validity whatever if performed in contravention of the rules adopted to govern them.

Apart from the above, there are other types of incapacity involving the prohibition that the law has imposed on certain persons against performing certain actions."

Women enjoy equality before the law, as is shown by article 189 of the Civil Code:

Art. 189. "The spouses may enter into contracts with one another and the wife does not need the authorization of her husband or the judge to conclude any type of contract or to appear in court. This provision is applicable to marriages contracted in accordance with the previous laws."

ARTICLE 16 OF THE CONVENTION

There is also equality between the spouses in matters relating to marriage and in family affairs, since the requirements for both parties are the same, except as regards age. Articles 101 and 102 of the Civil Code provide that:

Art. 101. "All persons suffering from no legal impediment may enter into marriage."

Art. 102. "The following are absolutely incapable of contracting marriage:

(1) A male under the age of 16 years and a female under the age of 14 years;

(2) Persons who do not have full exercise of their reason;

(3) Persons suffering from clear, permanent and incurable physical impotence preventing coitus;

(4) Persons covered by a matrimonial bond that has not been legally dissolved."

The difference as regards age is understandable and should not be considered discriminatory for reasons inherent in the biological development of the sexes.

The free consent of the spouses is a requirement for the validity of the marriage, since marriages are null and void if entered into against the will of one of the spouses. Article 105 of the Civil Code provides that:

Art. 105. "Marriage may not be celebrated without the assent or permission of the person or persons whose consent is necessary according to the rules set out, unless the relevant party does not need the consent of another person in order to marry or has obtained such consent from the Judge of First Instance of the relevant district."

Unfortunately, in the area of rights and responsibilities within marriage there is no equality, but it should be said that these provisions are legal relics and the Commission to Review Salvadorian Legislation is paying special attention to eliminating provisions of this kind which are currently irrelevant within the context of Salvadorian legislation.

Article 182 of the Civil Code provides that:

Art. 182. "The spouses are obliged to remain faithful to one another and to render each other succour and assistance in all circumstances of life.

The husband owes protection to his wife and the wife obedience to her husband."

However, it must be said that strict application of this precept is not relevant to Salvadorian society, in which women enjoy full equality with men.

With reference to dissolution of the marriage bond, Salvadorian legislation does make a clear difference between men and women, not as regards the right to dissolve the bond, but rather as regards the grounds for divorce. Article 145 of the Civil Code states:

Art. 145. "The law recognizes as grounds for divorce:

(1) The pregnancy of the wife as a result of illicit relations before marriage unknown to the husband;

(2) Adultery by the wife;

(3) Adultery by the husband with public scandal or abandonment of the wife;

(4) An attempt by one spouse on the life of the other;

(5) Serious abuse or frequent physical maltreatment;

(6) Flagrant drunkenness of one spouse as part of that spouse's normal behaviour;

(7) The voluntary or de facto abandonment by one spouse of the other for a period of six months;

(8) The sentencing of one spouse, for a common law crime, to imprisonment or severer punishment;

(9) An attempt by one spouse to corrupt the children or complicity in the corruption thereof or an attempt by the husband to corrupt his wife;

(10) Absolute separation of the spouses for one or more consecutive years, in which case either spouse may seek divorce."

Grounds (1) and (2) above are discriminatory, since the use of adultery by the husband as grounds for divorce requires public scandal or desertion of the wife, whereas it is sufficient for the wife merely to have committed adultery.

In the case of remarriage there is a distinction between men and women. Article 180 of the Civil Code provides that:

Art. 180. "When a marriage has been dissolved or annulled, the woman, if she is pregnant, cannot remarry before confinement or, if she displays no signs of pregnancy, before 300 days after the dissolution or declaration of nullity.

This period may be reduced by the number of days immediately preceding the said dissolution or declaration during which it was absolutely impossible for the husband to have access to the wife."

Consequently, a man may remarry immediately on dissolution of the previous matrimonial bond, whereas a woman must wait 300 days.

In the context of the rights and responsibilities of parents, both have the same rights in principle, but there is a distinction with regard to the civil status of the parents. Article 252 of the Civil Code provides that, when a child is born in wedlock, parental authority is exercised jointly by both parents.

Art. 252. "Parental authority is a set of rights that the law grants to the legitimate parents, acting jointly, or to one of them only in default of the other or, if appropriate, to unmarried mothers, over their unemancipated children.

Also, in default of the mother, the natural father who has recognized his child has parental authority.

Unemancipated children of any age are denominated children of the family and the father or mother, in relation to them, father or mother of the family.

When the law refers to the father of the family or simply to the father, it is to be understood that it is referring to the father or mother who exercises parental authority or to both, when they exercise it jointly, unless a separate reference is made to one or other of parents."

Family planning has already been mentioned in this report, together with the free access of all persons to family planning programmes, sexual counselling programmes, etc.

In the legal representation of a minor, women enjoy equality with men since a woman may represent her children or act as their tutor or guardian or, if need be, appoint a guardian for them.

Within the marriage and outside it, the wife has free choice of profession or occupation. With regard to names, there are no specific regulations in El Salvador, but the Commission to Review Salvadorian Legislation is already examining possible legislation on names to allow a woman to choose the family name she wishes to use when she contracts matrimony, with the only requirement that the name should be stated when the marriage is celebrated.

Under Salvadorian legislation, the spouses can freely administer their property, since there is a system of separation of goods, under which the wife is free to conclude contracts and administer and manage her own affairs, without her husband's consent.

With regard to the official registration of marriages, which is a requirement for marriages to be valid, article 316 provides that:

Art. 316. "Registrations of marriages shall be entered in the appropriate volume and shall include:

(1) The first name and family name, age and profession or occupation of each of the spouses;

(2) The first names and family names of the parents, in the case of legitimacy, or of the mother, in the case of illegitimacy;

(3) The first names and family names of the official who certified the marriage and of the witnesses who attended it;

(4) The date on which the marriage ceremony was performed.

The Mayor of the locality in question shall make the entry within eight days following the marriage, taking the data from the respective document, which must be sent to him not later than the third day by the official who performed the marriage ceremony, unless it was the Mayor himself."